

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8621 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MUMANVAS KELVANI MANDAL

Versus

STATE OF GUJARAT

Appearance:

MR JA ADESHRA for Petitioners
None present for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/10/97

ORAL JUDGEMENT

1. The petitioner No.1 is a trust registered under the provisions of the Bombay Public Trust Act and petitioner No.2 is the school run by it. The petitioners challenge by this special civil application the order dated 6th February, 1992, annexure 'A' under which the order annexure 'C' dated 13th January, 1992 under which the petitioner No.2-institution was declared as minority institution has been cancelled.

2. One of the contentions raised by the counsel for the petitioners is that the order dated 6th February, 1992 has been passed in total violation of the principles of natural justice. The petitioners were not given any show cause notice or any opportunity of hearing before passing of this order. This order is also a non-speaking order.

3. I have given my thoughtful consideration to the submissions made by the learned counsel for the petitioners and perused the special civil application.

4. This petition was admitted on 3-12-1992 and interim relief in terms of para No. 10(B) has been granted. So for all these years, the order dated 6th February, 1992 has not been given effect to and the petitioner No.2-institution is enjoying the status of a minority institution.

5. The respondents have not filed any reply to this special civil application and as such the facts stated therein stand uncontroverted.

6. The order dated 13th January, 1992 confers the status and benefits to the institution, the petitioner No.2 and in case for the reasons to be recorded that order has to be cancelled it was obligatory on the part of the respondents to give notice and opportunity of hearing to the petitioners. The order dated 6th February, 1992 adversely affects the benefits which have been conferred to the institution. Even if it is taken to be an administrative order then also before cancelling it, the affected persons, the petitioners herein, have to be given notice and opportunity of hearing. Only on this short ground, this special civil application deserves acceptance. Order accordingly.

7. This special civil application succeeds and the order dated 6th February, 1992, annexure 'A' is quashed and set aside. However, the quashing of this order does not mean that the respondents are precluded from passing the fresh order after giving notice and opportunity of hearing to the petitioners. The respondents shall give notice to the petitioners and after hearing them, they may pass the order in accordance with law. In case the respondents decide to cancel the order dated 13th January, 1992 then a reasoned order may be passed and copy of which may be sent to the petitioners. This exercise has to be undertaken and completed by the respondents within a period of six months from the date

of receipt of certified copy of this order. Rule made absolute in the aforesaid terms with no order as to costs.

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